

## **REMARKS**

Applicant is in receipt of the Office Action mailed December 2, 2004. Claim 40 has been amended. Claims 1-53 remain pending in the case. Reconsideration of the present case is earnestly requested in light of the following remarks.

### **Allowed Subject Matter**

Applicant appreciates the allowed subject matter of claims 1-39.

### **Claim Objections**

Claims 40-53 were objected to for various informalities. Applicant appreciates the Examiner's helpful comments regarding claim 40, and has addressed these objections by amending claim 40 as indicated above. More specifically, Applicant has deleted the word "received", and respectfully submits that the particular way the measurement task specification is made available to the software program is not relevant to the patentability of the claim. Applicant thus believes that this amendment addresses the objection and does not introduce new issues. Regarding the phrase "which are", to which the Examiner objected, Applicant has omitted the phrase per the Examiner's suggestion.

### **Section 102 Rejections**

The Office Action rejected claim 40 under 35 U.S.C. 102(b) as being anticipated by Ogawa (U.S. Patent No. 6009267, "Ogawa"). Applicant respectfully disagrees.

As the Examiner is certainly aware, anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). The identical invention must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Amended claim 40 recites:

40. An expert system for generating a measurement program specification for a measurement task, comprising:

a first software program operable to analyze a measurement task specification specifying the measurement task;

a validation software program operable to validate the measurement task specification; and

a plurality of experts operable to generate the measurement program specification for the measurement task;

wherein the measurement program specification is useable to perform the measurement task.

Ogawa is directed to “rebuilding a source program” by “automatically extracting and outputting necessary data” (col. 3, lines 45-46). More specifically, as described in col. 3, line 47 – col. 4, line 47, and elsewhere, in Ogawa’s system, a source program, e.g., written in COBOL, is analyzed by various extraction units that extract respective control and task specification data. As Ogawa states in col. 1, lines 51-59:

In this invention, a data item relation defined in a source program is extracted from the source program of a program run by a computer system, and, based on the extracted data item relation, statement data regarding a computer control and statement data regarding a task specification are extracted from the source program to be outputted separately, thereby reducing the workload of a human operator in rebuilding software.

Applicant respectfully submits that Ogawa’s “task specification” is part of and contained in the source program, along with “computer control data”, and that the cited portion of Ogawa describes extracting program statements from the source program (i.e., source code statements in the source program), analyzing the program statements, and designating each statement as either a computer control statement, e.g., OPEN, READ, WRITE, etc., or a task specification statement, e.g., MOVE, IF, UPDATE, etc. The respective extracted computer control and task specification statements are labeled, and the user is optionally allowed to input comments regarding the functionality of the

statements. The process results in a computer control/task specification data file. As Ogawa states on col. 20, lines 19-22:

The computer control/task specification data file 127F lists the statements in the computer control part and the statement[s] in the task specification part with their line numbers in the source program 100 in the line number sequence.

Applicant submits that Ogawa actually teaches away from Applicant's invention as represented by claim 40, in that Ogawa analyzes a source program to extract and determine the program's task specification, which may then be used to maintain the source program. For example, as described in col. 4, lines 43-47:

Hence, a reference to extracted data in the file or the list outputted by the computer control/task specification data extraction unit 3 simplifies an input work to a CASE tool, thereby reducing the workload of a human operator in rebuilding the source program 1.

In other words, Ogawa is actually directed to analyzing a software program to *extract* task specification data (and computer control information), where the extracted task specification data are used to aid in rebuilding, i.e., updating, or otherwise maintaining the program.

Applicant further notes that nowhere does Ogawa teach or suggest, or even mention, "a validation software program operable to validate the measurement task specification", nor validating anything at all. Additionally, Ogawa nowhere teaches or suggests, or even mentions, "a plurality of experts operable to generate the measurement program specification for the measurement task", nor "wherein the measurement program specification is useable to perform the measurement task". In fact, Ogawa fails to disclose any sort of expert system at all, and particularly fails to disclose generating *a measurement program specification useable to perform the measurement task* based on the measurement task specification.

Thus, for at least the reasons provided above, Applicant respectfully submits that Ogawa fails to teach or suggest all the features and limitations of claim 40, and so submits that claim 40 and those claims dependent therefrom are patentably distinct and non-obvious over Ogawa, and are thus allowable.

Removal of the 102 rejection of claim 40 is respectfully requested. Applicant further submits that since claim 40 has been shown to be allowable, dependent claims 41-53 are also allowable. Removal of the objections to these claims is respectfully requested.

Applicant also asserts that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

## CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-63000/JCH.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☒ PTO-1449 as previously submitted

Respectfully submitted,



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